

PREVAILED

Roll Call No. _____

FAILED

Ayes _____

WITHDRAWN

Noes _____

RULED OUT OF ORDER

HOUSE MOTION _____

MR. SPEAKER:

I move that House Bill 1221 be amended to read as follows:

- 1 Page 4, after line 7, begin a new paragraph and insert:
- 2 "SECTION 2. IC 22-4-10-3, AS AMENDED BY P.L.108-2006,
- 3 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 4 UPON PASSAGE]: Sec. 3. Except as provided in section 1(b) through
- 5 1(e) of this chapter, each employer shall pay contributions equal to five
- 6 and six-tenths percent (5.6%) of wages, except as otherwise provided
- 7 in IC 22-4-11-2, **IC 22-4-11-2.5**, IC 22-4-11-3, IC 22-4-11.5, and
- 8 IC 22-4-37-3.
- 9 SECTION 3. IC 22-4-10-6, AS AMENDED BY P.L.108-2006,
- 10 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 11 UPON PASSAGE]: Sec. 6. (a) When:
- 12 (1) an employing unit (whether or not an employing unit at the
- 13 time of the acquisition) becomes an employer under
- 14 IC 22-4-7-2(a);
- 15 (2) an employer acquires the organization, trade, or business, or
- 16 substantially all the assets of another employer; or
- 17 (3) an employer transfers all or a portion of the employer's trade
- 18 or business (including the employer's workforce) to another
- 19 employer as described in IC 22-4-11.5-7;
- 20 the successor employer shall, in accordance with the rules prescribed
- 21 by the department, assume the position of the predecessor with respect
- 22 to all the resources and liabilities of the predecessor's experience
- 23 account.
- 24 (b) Except as provided by IC 22-4-11.5, when:

(1) an employing unit (whether or not an employing unit at the time of the acquisition) becomes an employer under IC 22-4-7-2(b); or

(2) an employer acquires a distinct and segregable portion of the organization, trade, or business within this state of another employer;

the successor employer shall assume the position of the predecessor employer with respect to the portion of the resources and liabilities of the predecessor's experience account as pertains to the distinct and segregable portion of the predecessor's organization, trade, or business acquired by the successor. An application for the acquiring employer to assume this portion of the resources and liabilities of the disposing employer's experience account must be filed with the department on prescribed forms not later than thirty (30) days immediately following the disposition date or not later than ten (10) days after the disposing and acquiring employers are mailed or otherwise delivered final notice that the acquiring employer is a successor employer, whichever is the earlier date. This portion of the resources and liabilities of the disposing employer's experience account shall be transferred in accordance with IC 22-4-11.5.

(c) Except as provided by IC 22-4-11.5, the successor employer, if an employer prior to the acquisition, shall pay at the rate of contribution originally assigned to it for the calendar year in which the acquisition occurs, until the end of that year. If not an employer prior to the acquisition, the successor employer shall pay the rate of two and seven-tenths percent (2.7%) **or the rate determined under IC 22-4-11-2.5, if applicable**, unless the successor employer assumes all or part of the resources and liabilities of the predecessor employer's experience account, in which event the successor employer shall pay at the rate of contribution assigned to the predecessor employer for the period starting with the first day of the calendar quarter in which the acquisition occurs, until the end of that year. However, if a successor employer, not an employer prior to the acquisition, simultaneously acquires all or part of the experience balance of two (2) or more employers, the successor employer shall pay at the highest rate applicable to the experience accounts totally or partially acquired for the period starting with the first day of the calendar quarter in which the acquisition occurs, until the end of the year. If the successor employer had any employment prior to the date of acquisition upon which contributions were owed under IC 22-4-9-1, the employer's rate of contribution from the first of the year to the first day of the calendar quarter in which the acquisition occurred would be two and seven-tenths percent (2.7%) **or the rate determined under IC 22-4-11-2.5, if applicable**.

SECTION 4. IC 22-4-10.5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) Skills 2016

1 training assessments accrue and are payable by each employer under
 2 section 3 of this chapter for each calendar year in which the employer
 3 is subject to IC 22-4-10-1 with respect to wages for employment.

4 (b) Skills 2016 training assessments are due and payable to the
 5 department by each employer for the purposes set forth in section 2 of
 6 this chapter and are not deductible, in whole or in part, from the wages
 7 of individuals in the service of the employer.

8 (c) Skills 2016 training assessments paid under this chapter:

9 (1) shall not be credited to the employer's experience account; and

10 (2) do not affect the computation of an employer's contribution
 11 rate under IC 22-4-11-2 **or IC 22-4-11-2.5.**

12 SECTION 5. IC 22-4-11-2, AS AMENDED BY P.L.108-2006,
 13 SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 14 UPON PASSAGE]: Sec. 2. (a) Except as provided in IC 22-4-11.5, the
 15 department shall for each year determine the contribution rate
 16 applicable to each employer.

17 (b) The balance shall include contributions with respect to the
 18 period ending on the computation date and actually paid on or before
 19 July 31 immediately following the computation date and benefits
 20 actually paid on or before the computation date and shall also include
 21 any voluntary payments made in accordance with IC 22-4-10-5:

22 (1) for each calendar year, an employer's rate shall be determined
 23 in accordance with the rate schedules in section 3 or 3.3 of this
 24 chapter; and

25 (2) for each calendar year, an employer's rate shall be two and
 26 seven-tenths percent (2.7%), except as otherwise provided in
 27 **section 2.5 of this chapter or IC 22-4-37-3**, unless and until:

28 (A) the employer has been subject to this article throughout
 29 the thirty-six (36) consecutive calendar months immediately
 30 preceding the computation date; and

31 (B) there has been some annual payroll in each of the three (3)
 32 twelve (12) month periods immediately preceding the
 33 computation date.

34 (c) In addition to the conditions and requirements set forth and
 35 provided in subsection (b)(2)(A) and (b)(2)(B), an employer's rate shall
 36 not be less than five and six-tenths percent (5.6%) unless all required
 37 contribution and wage reports have been filed within thirty-one (31)
 38 days following the computation date and all contributions, penalties,
 39 and interest due and owing by the employer or the employer's
 40 predecessors for periods prior to and including the computation date
 41 have been paid:

42 (1) within thirty-one (31) days following the computation date; or

43 (2) within ten (10) days after the department has given the
 44 employer a written notice by registered mail to the employer's last
 45 known address of:

46 (A) the delinquency; or

1 (B) failure to file the reports;
 2 whichever is the later date.

3 The board or the board's designee may waive the imposition of rates
 4 under this subsection if the board finds the employer's failure to meet
 5 the deadlines was for excusable cause. The department shall give
 6 written notice to the employer before this additional condition or
 7 requirement shall apply.

8 (d) However, if the employer is the state or a political subdivision
 9 of the state or any instrumentality of a state or a political subdivision,
 10 or any instrumentality which is wholly owned by the state and one (1)
 11 or more other states or political subdivisions, the employer may
 12 contribute at a rate of one percent (1%) until it has been subject to this
 13 article throughout the thirty-six (36) consecutive calendar months
 14 immediately preceding the computation date.

15 (e) On the computation date every employer who had taxable wages
 16 in the previous calendar year shall have the employer's experience
 17 account charged with the amount determined under the following
 18 formula:

19 STEP ONE: Divide:

20 (A) the employer's taxable wages for the preceding calendar
 21 year; by

22 (B) the total taxable wages for the preceding calendar year.

23 STEP TWO: Multiply the quotient determined under STEP ONE
 24 by the total amount of benefits charged to the fund under section
 25 1 of this chapter.

26 (f) One (1) percentage point of the rate imposed under subsection
 27 (c) or the amount of the employer's payment that is attributable to the
 28 increase in the contribution rate, whichever is less, shall be imposed as
 29 a penalty that is due and shall be deposited upon collection into the
 30 special employment and training services fund established under
 31 IC 22-4-25-1. The remainder of the contributions paid by an employer
 32 pursuant to the maximum rate shall be:

33 (1) considered a contribution for the purposes of this article; and

34 (2) deposited in the unemployment insurance benefit fund
 35 established under IC 22-4-26.

36 SECTION 6. IC 22-4-11-2.5 IS ADDED TO THE INDIANA CODE
 37 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE
 38 UPON PASSAGE]: **Sec. 2.5. (a) This section applies to the**
 39 **determination of contribution rates for a calendar year in which**
 40 **the balance in the fund as of the determination date is at least:**

41 **(1) an amount sufficient for Schedule B to apply as the**
 42 **schedule of rates, as determined under section 3 of this**
 43 **chapter; plus**

44 **(2) an amount that maintains the fund ratio (as determined by**
 45 **section 3 of this chapter) at the lowest percentage required for**
 46 **Schedule B to apply after the reduced contribution rate**

described in subsection (b) is implemented.

(b) Except as otherwise provided in IC 22-4-11.5 or IC 22-4-37-3, the contribution rate for an employer that would otherwise pay the contribution rate under section 2(b)(2) of this chapter is one percent (1%) rather than the contribution rate determined under section 2(b)(2) of this chapter.

(c) If this section is used to determine employer contribution rates for a calendar year, for each subsequent calendar year the contribution rate for an employer that would otherwise pay the contribution rate under section 2(b)(2) of this chapter is one percent (1%) rather than the contribution rate determined under section 2(b)(2) of this chapter, except as otherwise provided in IC 22-4-11.5 or IC 22-4-37-3, unless and until:

(1) the employer has been subject to this article throughout the thirty-six (36) consecutive calendar months immediately preceding the computation date; and

(2) there has been some annual payroll in each of the three (3) twelve (12) month periods immediately preceding the computation date.

(d) This section expires July 1, 2012.

SECTION 7. IC 22-4-37-3, AS AMENDED BY P.L.108-2006, SECTION 65, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) Should:

(1) the Congress of the United States amend, repeal, or authorize the implementation of a demonstration project under 29 U.S.C. 49 et seq., 26 U.S.C. 3301 through 3311, 42 U.S.C. 301 et seq., or 26 U.S.C. 3101 through 3504, or any statute or statutes supplemental to or in lieu thereof or any part or parts of said statutes, or should any or all of said statutes or any part or parts thereof be held invalid, to the end and with such effect that appropriations of funds by the said Congress and grants thereof to the state for the payment of costs of administration of the department are or no longer shall be available for such purposes;

(2) the primary responsibility for the administration of 26 U.S.C. 3301 through 26 U.S.C. 3311 be transferred to the state as a demonstration project authorized by Congress; or

(3) employers in Indiana subject to the payment of tax under 26 U.S.C. 3301 through 3311 be granted full credit upon such tax for contributions or taxes paid to the department;

then, beginning with the effective date of such change in liability for payment of such federal tax and for each year thereafter, the normal contribution rate under this article shall be established by the department and may not exceed three and one-half percent (3.5%) per year of each employer's payroll subject to contribution. With respect to each employer having a rate of contribution for such year pursuant to terms of IC 22-4-11-2(b)(2)(A), IC 22-4-11-2(b)(2)(B),

1 IC 22-4-11-2(c), **IC 22-4-11-2.5**, IC 22-4-11-3, IC 22-4-11-3.3, and
2 IC 22-4-11.5, to the rate of contribution, as determined for such year in
3 which such change occurs, shall be added not more than eight-tenths
4 percent (0.8%) as prescribed by the department.

5 (b) The amount of the excess of tax for which such employer is or
6 may become liable by reason of this section over the amount which
7 such employer would pay or become liable for except for the provisions
8 of this section, together with any interest or earnings thereon, shall be
9 paid and transferred into the employment and training services
10 administration fund to be disbursed and paid out under the same
11 conditions and for the same purposes as is other money provided to be
12 paid into such fund. If the commissioner shall determine that as of
13 January 1 of any year there is an excess in said fund over the money
14 and funds required to be disbursed therefrom for the purposes thereof
15 for such year, then and in such cases an amount equal to such excess,
16 as determined by the commissioner, shall be transferred to and become
17 part of the unemployment insurance benefit fund, and such funds shall
18 be deemed to be and are hereby appropriated for the purposes set out
19 in this section.

20 SECTION 8. [EFFECTIVE UPON PASSAGE] **IC 22-4-10-3,**
21 **IC 22-4-10-6, IC 22-4-10.5-4, IC 22-4-11-2, and IC 22-4-37-3, all as**
22 **amended by this act, and IC 22-4-11-2.5, as added by this act, apply**
23 **to the determination of rates of employer contributions to the**
24 **unemployment compensation system for calendar years beginning**
25 **after December 31, 2007.**

26 SECTION 9. **An emergency is declared for this act."**

(Reference is to HB 1221 as printed February 20, 2007.)

Representative Borror